BILL NO. G-72-05- 29

GENERAL ORDINANCE NO. G- Withdrawn

AN ORDINANCE amending Sections 3, 6, and 14 of the Zoning Ordinance of the City of Fort Wayne, Indiana, pertaining to service station uses and abandoned service station buildings.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. It is the purpose of this ordinance to permit the location of service stations only in accordance with comprehensive planning goals; to regulate motor vehicle access to such uses so as to cause minimum disruption of traffic; to regulate the appearance of such uses in a manner consistent with reasonable standards; to require that certain operations of such uses be conducted within enclosed buildings or be effectively screened, and, where appropriate, to require that all services be enclosed or screened; to allow service station uses, within a normal competitive environment, and subject to specified site standards, and to prevent such concentrations of service stations as would tend to create blight and congestion in view of the recognized tendency toward excessive service station development in certain areas of the community, there being at least 150 abandoned service stations in the City of Fort Wayne, many of which are now contributing to depress property values and create blight in the community's central or nearcentral business districts and older residential areas.

SECTION 2. Section 3 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended by adding thereto the following:

Section 3. Definitions.

 $\left(44a\right)$ Service Station. An establishment having more than one pump wherein a principal activity is the sale of motor fuel as directly dispensed to the consumer's vehicle.

SECTION 3. Section 6 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended by adding thereto the following:

Section 6. Amortization of Nonconforming Uses or Buildings.

E. Any service station which is a nonconforming use on July 1, 1972, or becomes a nonconforming use thereafter and which is not operating for a period of six (6) months or more after July 1, 1972, or any such service station not operating for a lesser period if intention to abandon is evidenced by removal of pumps or other facilities or other such action, shall be considered abandoned and the Board, after public hearing duly advertised as part of a regular public meeting of the Board, and with at least a five (5) day notice by certified mail to the owner of the real estate upon which the abandoned service

station structure is located as disclosed by the tax duplicates of Allen County, Indiana, and the lessor of said station if any, if known by the Building Commissioner, may require the rasing and removal of any structure and equipment from the premises and removal of any underground fuel tanks or the filling of same with sand or other suitable material approved by the Commissioner, all within sixty (60) days following the Board's order of rasing and removal unless further time is allowed by the Commissioner. The Board's order must be supported by a finding from evidence presented at the public hearing including current photographs of the structure and equipment and surrounding property, that the abandoned service station is tending to creat blight and has a material adverse effect upon the enjoyment, use and value of adjacent public or private property, and the reasonable cost of rasing and removal will not exceed the benefits to be received by the adjacent users of real estate and the neighborhood community. If an owner, lessor, or user does not comply with any rasing and/or removal order of the Board, the Building Commissioner shall have the right to withhold use permits for any other service station uses requested by or for said non-complying owner, lessor or user.

SECTION 4. Section 14 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended by removing therefrom the following:

Section 14. Permitted Uses - Specified Districts.

- E. "BIB" District.
 - "(2) Service Station."

SECTION 5. Section 14 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended by adding thereto the following:

Section 14. F. "B2" - "B2a". Regional and Neighbor-hood Shopping Centers.

(la) Service Station Use subject to and limited by the following criteria:

- (a) In a "E2" Center the number of service stations shall not exceed one for each ten (10) acres contained in the Center, if all other requirements of this Section F are satisfied.
- (b) In a "B2A" Center one service station if all other requirements of this Section F are satisfied.
- (c) Access to service stations in "B2" and "B2A" Centers shall be solely from within the center.
- (d) Screening consisting of walls, fences, or other structures, or evergreens so situated and of sufficient opacity or translucence as to conceal the service station from any point at the service station boundary to 6-1/2 feet above the said boundary, shall be provided for residential zones adjacent to any such service station.

Section 14. G. "B3A" and "B3B" District - General Business.

- (10) Service station in a "B3B" District only; subject to compliance with the following requirements:
 - (a) Lot Size and Frontage Requirements. A Station with four pumps and up to two enclosed service bays, requires a site with a minimum frontage on the primary street of 150 feet and a minimum area of 12,000 square feet. A station with more than 4 pumps and/or more than two enclosed service bays requires a site with a minimum frontage on the primary street of 150 feet and a minimum area of 40,000 square feet.
 - (b) The building itself should be set back at least 40 feet from any street right-of-way lines to provide adequate area for maneuvering vehicles in the service area and proper visibility, particularly at intersections, a gasoline pump or pump island shall be set back at least 15 feet from any street rightof-way.
 - (c) Size and Height of Buildings:
 - (i) The size of all buildings shall fall within the following criteria: the minimum lot coverage shall be 30% of lot area or 1,800 square feet whichever is greater.
 - (ii) The height of all structures (as defined in this chapter) shall comply with the zoning district in which it is located.
 - (d) Plan Commission shall review and approve all automobile service station site plans, landscaping and building designs. It may approve, disapprove, or approve with conditions, any submittal. The architectural design of the building shall be integrated with that of the surrounding area, and it may require change in design or appearance if the design and plan submitted would have a material adverse effect upon the enjoyment or value of adjacent public or private property.
 - (e) Driveways and Other Paved Surfaces Including Parking:
 - Driveways All driveways and access geometrics are to comply with the requirements of the state or local agency responsible for issuance of permits.
 - (ii) Parking Parking of vehicles on site is prohibited except for such vehicles as are in the process of being serviced, those belonging to employees, service and tow trucks owned by the establishment.

Parking is prohibited where it will impede the vision of the traffic in the public streets, parking of rental vehicles is prohibited.

A minimum of 4 parking spaces for each service bay shall be provided. In no case shall less than 10 spaces be provided. Spaces shall be 9' x 20' minimum and striped.

- (f) Landscaping and Buffer Strips: Ten per cent of the total site shall be landscaped and such landscaping shall be maintained and replaced as necessary. At least 50 per cent of the shrubbery and trees shall be evergreen. A six (6) foot wide landscaped area shall be provided and maintained in good order along every property line in common with any residentially zoned property or public right of way.
- (g) Signs: All signs must be in compliance with the existing sign ordinance and provisions of this chapter. In addition, service stations shall:
 - (i) Not have more than one free standing sign, which shall not exceed 25 feet in height nor have automated parts or intermittent lighting, shall be at least 50 feet from any residentially zoned property and not contain any description other than the station name and/or symbol and item prices.
 - (ii) All roof signs are prohibited and no part of any sign attached to any structure shall project above a height of 25 feet, have automated parts or intermittent illumination.
 - (iii) All banners, pennants and similar devices designed for temporary outdoor display shall be prohibited.
- (h) Lighting: All exterior lighting shall be so arranged and shielded as to prevent direct illumination from striking abutting property and from striking the occupants of vehicles passing on abutting streets.
- (i) Storage: All storage must be enclosed and integrated with the design of the station. All hoists, service racks, accessory sales racks and vending machines shall be maintained within an enclosed building.
- (j) Maintenance: All service stations shall be maintained at all times in a clean and orderly condition. The responsibility for compliance with the provision shall lie with all parties having a lease or ownership interest in the station.

(k) No service station will be permitted along a street or streets in the case of a corner location, nearer than 600 feet to an existing station unless the average weekday traffic volume along such street is more than 20,000 vehicles per day according to the latest A.D.T. of the governmental agency having jurisdiction of the adjacent streets, per existing and proposed station. However, in no case shall a service station as provided for herein be permitted nearer than 300 feet from another service station on the same side of the street nor if two service stations already exist at a given intersection.

Section 14. I. "M1" District - Light Industrial.

 $\ensuremath{\text{(2)}}$ Other Commercial Uses, including but not limited to the following:

(r) Service Station.

SECTION 6. If any part, parts, section, sections, provision, clause or portion of this ordinance shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this ordinance as a whole or of any other part, section, clause, provision, or portion of this Ordinance.

SECTION 7. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and legal publication thereof.

Councilman Mossol.

APPROVED AS TO FORM AND LEGALITY.

Read the first time in full and on motion by Maseal seconded by
and duly adopted, read the second time by title and
referred to the Committee on Outlie Works (and to the
City Plan Commission for recommendation) (and Public Hearing to be held after due legal
notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on
theday of
P.M., B.S.T.
Date: 5-23-12. Charlet Westerman
CITI CLEAR
Read the third time in full and on motion by
seconded by and duly adopted, placed on its passage.
Passed (LOST) by the following vote:
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Kraus
Nuckols
Moses
Schmidt, D
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DateCITY CLERK
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Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No
on the day of, 19
ATTEST: (SEAL)
CITY CLERK PRESIDING OFFICER
Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the day of
, 19 -at the hour ofo'clock _M.,E.S.T.
CITY CLERK
Approved and signed by me this day of197
at the hour ofo'clockm., E.S.T.

MAYOR

Read the first time in full and on motion by	seconded by
and duly adopted, read the se	cond time by title and
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	RESIDING OFFICER
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at the hour of o'clockm., E.S.T.	

WITHDRAWAL OF __General ORDINANCE NO. G-72-05-29 seconded by____ that this Ordinance No. 10-72-05-29, is hereby withdrawn for no further action by the Common Council of the City of Fort Wayne, Indiana, on Bill No. 19-72-05-29. WITHDRAWN by the following vote: AYES NAYS ABSTAINED ABSENT BURNS HINGA KRAUS NUCKOLS MOSES D. SCHMIDT V. SCHMIDT STIER TALARICO

_____ATTEST: (SEAL)

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PRESIDING OFFICER

CITY CLERK

Bill No. <u>G-72-05-29</u>	
REPORT OF THE COMMITTEE ONFUBLIC WORKS	
We, your Committee on Public Works to whom was referred an Ordinance	
amending Sections 3, 6, and 14 of the Zoning Ordinance of	
the City of Fort Wayne, Indiana, pertaining to service	
station uses and abandoned service station buildings.	
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have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance	
James S. Stier - Chairman Janua John	
Eugene Kraus, Jr. Vice-Chairman	
Samuel J. Talarico Samuel J. Talapero	
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CONCURRED IN

CHARLES W. WESTERMAN, CITY CLERK

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	Winfield C. Moses, Jr Chairman
	William T. Hinga - Vice-Chairman
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	Eugene Kraus, Jr.
	Donald J. Schmidt
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ABANDONED, VACATED, OR CONVERTED MOTOR VEHICLE FILLING AND SERVICE STATIONS

- I. During the period when a motor vehicle filling and service is vacated, closed, or otherwise not opened for business for more than thirty (30) consecutive days, the owner or lessee shall be subject to complying with the following regulations:
 - a) Vehicular parking and storage shall be prohibited at all times anywhere on the premises and the owner or lessee shall post a sign or signs on the premises, giving notice that all parked or stored vehicles are subject to ticketing and removal by the City at the vehicle owner's expense. In addition, the owner or lessee, whoever is in possession, is subject to ticketing if unlawfully parked or stored vehicles are permitted on the premises by consent of owner or lessee. The City shall have the right of entry to subject property for the purpose of accomplishing said ticketing and removal.
 - b) The ground shall be kept free of rubbish and debris, the sidewalks shall be kept free of snow, and the grass, if any, shall be well kept and cut as necessary so as to present a neat and attractive appearance at all times.
 - c) The owner shall maintain a record of the name and address of the person or firm who cleaned the premises and removed the debris; such record shall be made available to the inspectors of the Department of Public Works; and further, each entry shall be kept at least one year.
- II. Within sixty (60) days of such closing, all curb cuts across the driveway entrances and all other points of ingress and egress to the premises shall be closed to vehicular traffic by properly placed and secured precast concrete wheel stops or the equivalent, as may be approved by the appropriate City Agency.
- III. A motor vehicle filling and service station that is vacant, closed, or not opened for business for a period of one hundred twenty (120) consecutive days shall be prima facile deemed abandoned. An owner of an abandoned motor vehicle filling and service station is subject to notice from the Board of Public Works directing the razing, demolition, and removal of all buildings, structures, pumps, and signs situated upon the premises, together with the removal of all underground storage tanks. Said razing and removal is to be accomplished within thirty (30) days from date of said notice. Owner shall complete said demolition, leaving the premises free from rubbish and debris, and shall properly backfill all excavation areas. Owner shall have the right, in lieu of complying with the demolition order, to petition City Plan Commission within thirty (30) days showing cause why said motor vehicle filling and service station should not be considered abandoned, and a sixty (60) day extension of the demolition order may be granted by the Commission so that the station may be reopened or converted to an alternate business use. No more than two (20 sixty (60) day extensions shall be granted. The City Plan Commission shall, in making its finding, take into consideration but not necessarily be limited to, the following criteria:
 - a) Prospects for alternate or future use.
 - Pending litigation or condemnation affecting subject property.

- c) Pending or contemplated road changes.
- d) Character and trends of development in the neighborhood.
- e) Pending sale or lease transactions concerning subject property.
- IV. If, within the one hundred twenty (120) consecutive day period referred to, the property has been sold or leased for alternate business purposes and an affidavit to this effect has been filed with the City Plan Commission, then demolition shall be deferred. Approval of the Commission shall be received prior to any motor vehicle filling and service station's being converted to any other use. The Commission shall take into consideration all aspects of the proposed development, including, but not necessarily limited to, the type use, the site plan, the exterior design, and the appearance of the development, and shall process the proposal within sixty (60) days from date of submission to the City Plan Commission, in accordance with the provisions of Section 65.0000 of this Ordinance.

To be inserted after "(2) Service Station"

SECTION 4. Section 14 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended by adding thereto the following:

"(2) Only those service stations existing in a "BlB" District on January 1, 1972 may continue in operation in such a district, and they may be maintained, repaired, renovated and modernized, subject to the limitations and restrictions imposed by Section 3 of this Ordinance and other ordinances of the City of Fort Wayne and subject, too, to any limitations imposed by plat or contract.

(This will require a renumbering of the subsequent sections)

To be added after the conclusion of Section 5(k)

; provided, however, that a third service station may be permitted
at an intersection where two service stations already exist if the
average weekday traffic volume through such intersection is more
than vehicles per day according to the latest A.D.T. of
the governmental agency having jurisdiction of such intersection
and a fourth service station may be permitted at an intersection
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SECTION 2. Section 3 of Chapter 36 of the Municipal Code of the City of Fort Wayn-\$\sigma\$ Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended by adding thereto the following:

SECTION 3. Definitions.

- (44a) Service Station. An establishment having more than one pump wherein a principal activity is the sale of motor fuel as directly dispensed to the consumer's vehicle.
- SECTION 3. Section 14 of Chapter 36 of the Municipal Code of the City of Fort Wayne, Indiana, 1946, as amended by General Ordinance No. 2836 and subsequent amendments, is hereby amended by removing therefrom the following:

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- E. "BIR" District
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Section 14. F. "B2" - "B2a". Regional and Neighborhood Shopping Centers.

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- (la) Service Station Use subject to and limited by the following criteria:
- (a) In a "B2" Center the number of service stations shall not exceed one for each ten (10) acres contained in the Center, if all other regulrements of this Section F are satisfied.
- (b) In a "B2A" Center one service station if all other requirements of this Section F are satisfied.
- (a) Access to service stations in "B2" and
 "B2N" Centers shall be solely from within
 the center.
- (d) Screening consisting of walls, fences, or other structures, or evergeens so situated and of sufficient opacity or translucence as to conceal the service station from any point at the service station boundary to 6-1/2 feet above the said boundary, shall be provided for residential zones adjacent to any such service station.

Section 14. G. "B3A" and "B3B" District - General Business.

- (10) Service station in a "B3B" District only; subject to compliance with the following requirements:
- (a) A gasoline pump or pump island shall be set back at least 15 feet from any street rightof-way.
- (b) Driveways and Other Paved Surfaces Including Parking:

- (1) Driveways All driveways and access geometrics are to comply with the requirements of the state or local agency responsible: for issuance of permits.
- (ii) Parking is prohibited where it will impede the vision of the traffic in the public streets.
- (c) Landscaping and Buffer Strips: Ten per cent of the total site shall be landscaped and such landscaping shall be maintained and replaced as necessary.
- (d) Signs: All signs must be in compliance with the existing sign ordinance and provisions of this charter.
- (e) Lighting: All exterior lighting shall be so arranged and shielded as to prevent direct illumination from striking abutting property and from striking the occupants of vehicles passing on abutting streets.
 - (i) Storage: All storage must be enclosed and integrated with the design of the station. All hoists, service racks, accessory sales racks and vending machines shall be maintained within an enclosed building.
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Section 14. I. "Ml" District - Light Industrial.

- (2) Other Commercial Uses, including but not limited to the following:
 - (r) Service Station.

SECTION 6. If any part, parts, section, sections, provision, clause or portion of this ordinance shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this ordinance as a whole or of any other part, section, clause, provision, or portion of this ordinance.

SECTION 7. This Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and legal publication thereof.

Winfield Moses, Jr. Councilman.

ORDINANCE CHECK-OFF SHEET

INFORMATION REGARDING ORDINANCE

PEOPLE SPEAKING AGAINST ORDINANCE

CONTENTS OF ORDINANCE

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